IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO.28 OF 2006
IN
PETITION NO.532 OF 2005

Mahesh Jethamal Jani ...Petitioner
V/s.
Mrs.Alka Devendra Swami and Anr. ..Caveators.

Shri.Cyrus Ardeshir i/b Mrs.Laxmi Mankar for the petitioner.
None for the caveators.

CORAM : D.K. DESHMUKH, J.
DATED : 08/09/2006

P.C.:-

1. This notice of motion is taken out by the petitioner. Petitioner has filed petition for probate of the last will of deceased Murli Dayaram Kirpalani. Petitioner is the Executor of the estate of the deceased. Caveat has been filed by Mrs.Alka Devendra Swami. Petitioner in the affidavit has stated that caveator is not heir of the deceased and she has no interest in the estate of the deceased. She is merely a tenant of flat left behind by the deceased and she also claimed that she had entered into the agreement of purchase with deceased and therefore, according to the petitioner she has no interest in the property of the deceased.

2. Earlier matter was on board on last date. None appeared for the caveators. Therefore, matter was kept today. Again none appears for the caveators.

3. I have heard learned counsel for the petitioner. Perused the record including reply filed by the caveators and the affidavit in support of notice of motion. Perusal of the reply shows that caveator does not state that she is a heir of the deceased and she has interest in the property left behind by the deceased except that she is a tenant of one of the properties left behind by the deceased.

4. It is thus clear that She has no interest in the property left behind by the deceased and she is not a heir of the deceased. In my view, therefore, notice of motion is granted in terms of prayer clause (a).

5. Notice of motion is disposed of.

(D.K. DESHMUKH, J.)